

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

FLOARE MOISSIU,

Petitioner,

v.

UNITED STATES CITIZENSHIP AND
IMMIGRATION SERVICES, *et al.*,

Respondents.

Case No. 2:10-CV-00218-KJD-LRL

ORDER

Presently before the Court is Petitioner's Amended Petition (#5) seeking to amend the date of birth on her certificate of naturalization. Having been properly served and notified, the United States has filed Notice of Non-Opposition to the Amended Petition (#7) stating that the Government does not oppose Petitioner's request for an order authorizing the United States Citizenship and Immigration Services ("USCIS") to issue a new certificate of naturalization reflecting Petitioner's date of birth as January 18, 1946.

On February 17, 2010, Petitioner filed several documents and a letter with the Court requesting that she be allowed to change her date of birth on her Certificate of Naturalization. Petitioner alleges that a clerical error was made when a prior birth certificate was issued in Romania in 1956 showing her birth date as January 18, 1947. It was this birth certificate she used when she

1 provided her birth date at the time of her naturalization in 1995. Petitioner asserts that when
2 Romania entered the European Union every birth certificate was reissued in Romanian, English and
3 French. Petitioner applied for a copy of her original certificate in 2008 and the new certificate issued
4 under the European Union regulations disclosed that Petitioner had been born in 1946 rather than
5 1947. The discrepancy between her current birth certificate and her certificate of naturalization
6 creates several identification problems for Petitioner.

7 On September 21, 2010, the Court ordered Petitioner to file an amended petition and
8 correctly serve it on Respondents. Petitioner did so, and the Government filed its non-opposition in
9 response.

10 Petitioner's request is governed by the Code of Federal Regulations, 8 C.F.R. § 334.16(b),
11 which allows for an amendment of a petition for naturalization:

12 "Whenever an application is made to the court to amend a petition for
13 naturalization after final action thereon has been taken by the court, a copy
14 of the application shall be served upon the district director having
administrative jurisdiction over the territory in which the court is located."

15 If the application is made "to correct a clerical error arising from oversight or omission," the district
16 director may not object to the petition. *Id.* Though the regulations give the Court power to order
17 amendments of applications, courts have regularly used this regulation to make amendments to
18 certificates of naturalization upon a finding of honest mistake made by the petitioner seeking the
19 amendment. *See In re: Lee*, No. C 06-80150-MISC MJJ, 2007 WL 926501, at *1-2(N.D. Cal.
20 March 26, 2007); *Kouanchao v. USCIS*, 358 F. Supp.2d 837 (D. Minn. 2005).

21 Petitioner bears the burden of showing the date on her Certificate of Naturalization is
22 incorrect and that January 18, 1946 is her correct date of birth. The Court finds that Petitioner has
23 met her burden given the verified petition, documents and the Government's non-opposition. Since
24 no allegations of fraud have been made, the Government will suffer no prejudice, and Petitioner has
25 provided unequivocal evidence that her true date of birth is January 18, 1946, the Court grants
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1 Petitioner's petition to change her date of birth on her Certificate of Naturalization to January 18,
2 1946.

3 Accordingly, IT IS HEREBY ORDERED that Petitioner's Amended Petition (#5) is
4 **GRANTED;**

5 IT IS FURTHER ORDERED that the Clerk of the Court serve John Kramar, the USCIS
6 District Director having administrative jurisdiction over Nevada, at 2035 North Central Avenue in
7 Phoenix, AZ 85004-1548, with a copy of this Order to be placed in Petitioner's Service file pursuant
8 to 8 C.F.R. § 334.16(b);

9 IT IS FURTHER ORDERED that the Clerk of the Court close this action, though the Court
10 will retain jurisdiction to enforce its Order that Petitioner's date of birth on her Certificate of
11 Naturalization be amended to reflect her correct birth date of January 18, 1946.

12 DATED this 5th day of January 2011.

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16 Kent J. Dawson
17 United States District Judge
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